

MOTOR FUEL/SPECIAL FUEL TAX

- Statutory Provision

Title 30, Delaware Code, Chapter 51.

- Collection/Administrative Agency

The Department of Transportation, Motor Fuel Tax Administration, administers this tax.

- General Liability

Delaware imposes an excise tax on each gallon of gasoline sold or used in the state. The tax is collected by and paid to the state by licensed distributors. An excise tax is also imposed on the retail sale or use of special fuel, which includes all combustible gases and liquids suitable for propulsion of motor vehicles except fuels that are determined to be gasoline or gasohol. The special fuel tax is collected by and paid to the state by licensed suppliers, users, and dealers. A new excise tax is imposed for certain aviation jet fuel designed for use in the operation of jet or turbo-prop aircraft, effective July 1, 2019.

- Tax Rates

The excise tax rate is 23 cents per gallon of gasoline, 22 cents per gallon of special fuel, or 5 cents per gallon of aviation jet fuel, sold or used in the state.

- Tax Receipts (\$ millions)¹

<u>Fiscal Year</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
<u>Total (\$)</u>	112.9	113.8	112.9	112.6	113.6	117.0	124.6	129.5	131.6	142.8

- Tax Preferences

The following table identifies motor and special fuel tax preferences within the Delaware Code along with annual estimated costs. Links within the table navigate to more detailed analysis of each tax preference.

¹ Figures are for gasoline and special fuel receipts

2019 Delaware Tax Preference Report

Motor Fuel/Special Fuel Tax

Page 3-2

TAX PREFERENCE	FY 19 (EST)	FY 20 (EST)
3.01 Motor Fuel Tax Exemptions	\$12,000	\$12,000
3.02 Motor Fuel Tax Refunds	\$60,000	\$60,000
3.03 Special Fuel Exemptions	\$45,000	\$45,000
3.04 Aviation Jet Fuel Exemptions	N/A	Unknown

3.01 Motor Fuel Tax Exemptions

1. Statutory Provision
Title 30, Delaware Code, Chapter 51, Subchapter I, §5111(a)(5).
2. Description
This provision exempts gasoline sold to volunteer fire companies, veterans' groups, and civic ambulance companies from the motor fuel tax. Section 5111 of the Delaware Code also exempts gasoline sold to the federal or state government from the motor fuel tax. However, these exemptions for governments are not considered tax preferences for the purpose of this report. (Please see section titled "Delaware Tax Provisions Not Included" for more discussion.)
3. Estimated Revenue Loss
FY 19: \$12,000
FY 20: \$12,000
4. Assessment
Whether the tax code is the most appropriate policy tool to provide public support for these activities is open to question. Proponents of the preference may argue that the exemption is justified because these organizations perform quasi-public service functions that the state or one of its political subdivisions would otherwise provide.
5. Inadvertent Effects
None noted.

3.02 Motor Fuel Tax Refunds

1. Statutory Provision
Title 30, Delaware Code, Chapter 51, Subchapter I, §5120(a).

2. Description

This provision allows for a refund of motor fuel taxes in the following circumstances:

- Gas sold for use in stationary engines, tractors, motor boats, aircraft, and any other vehicle or machine that does not utilize public highways; or,
- Gas sold to operators of a taxicab business with a base of operations in Delaware.

3. Estimated Revenue Loss

FY 19: \$60,000

FY 20: \$60,000

4. Assessment

Because the motor fuel excise tax is intended to be a road use tax, the exemption of fuel in off-highway vehicles and machines is considered legitimate. However, one may question the exemption for taxicabs, as their operation undoubtedly occurs on public roads and highways. Additionally, with the rise of ride-sharing services, the equity of this preference for taxicabs is further brought into question.

5. Inadvertent Effects

None noted.

3.03 Special Fuel Exemptions

1. Statutory Provision

Title 30, Delaware Code, Chapter 51, §5133(a).

2. Description

This provision exempts special fuels—primarily diesel—sold to volunteer fire companies, veterans' groups, and civic ambulance companies from the special fuel tax.

Section 5111 of the Delaware Code also exempts fuel sold to the federal or state government from the special fuel tax. However, these exemptions for governments are not considered tax preferences for the purpose of this report. (Please see section titled "Delaware Tax Provisions Not Included" for more discussion.)

3. Estimated Revenue Loss

FY 19: \$45,000

FY 20: \$45,000

4. Assessment

The rationale for exempting special fuels used by eligible vehicles is consistent with the exemption of such vehicles from the motor fuels tax. Please refer to the discussion in Items 3.01 and 3.02.

5. Inadvertent Effects

None noted.

3.04 Aviation Jet Fuel Exemptions

2. Statutory Provision

Title 30, Delaware Code, Chapter 51, §5172(b).

3. Description

This provision exempts aviation jet fuels used for aerial application within the State from the aviation jet fuel tax. It also exempts, for a temporary period not to exceed 5 years, aviation jet fuel used for the purpose of economic development and job creation in the aviation industry in the State. This exemption must be approved by the Council on Development Finance and the Director of Small Business.

Section 5172 of the Delaware Code also exempts fuel sold to the federal or state government from the aviation jet fuel tax. However, these exemptions for governments are not considered tax preferences for the purpose of this report. (Please see section titled “Delaware Tax Provisions Not Included” for more discussion.)

4. Estimated Revenue Loss

FY 19: N/A

FY 20: Unknown

5. Assessment

Aviation jet fuel used for aerial application, which is spraying crops with crop protection products from an agricultural aircraft, is a business input in the agricultural process, not a final product. Taxing business inputs violates several tax policy principles and causes economic distortions.

6. Inadvertent Effects

None noted.